THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION NO.16591 OF 2006

DATED: 24.8.2006

BETWEEN:

Aruna Jain … petitioner

And

The Municipal corporation of Hyderabad
And others.
… Respondents

THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION NO.16591 OF 2006

ORDER:

Heard the counsel.

The writ petition is filed seeking a writ of Mandamus declaring the action of the respondents in interfering with the petitioner's fundamental and constitutional rights in respect of the petitioner's property in 3-6-664/7, 7/1 & 8, Hymayathnagar, as being contrary to the provisions of the Land Acquisition Act 1894 and Hyderabad Municipal Corporation Act 1955, apart from being illegal, arbitrary, unconstitutional and in the breach of principles of natural justice and consequently direct the respondents not to interfere with the petitioner's rights except in accordance with law and pass such other suitable orders.

It is stated that the petitioner is absolute owner and possessor of the property admeasuring Ac.40.72 square yards bearing No.3-6-664/7, 7/1 & 8 situated at Himayathnagar main road, Hyderabad having purchased the same by way of registered sale deeds dated 20.4.1996. It is also stated that the petitioner raised ground floor plus 1st floor with the built up area of 900 square feet and the ground floor is used for maintaining a medical shop which is the only source of income for the petitioner's family. It is also stated that pursuant to the decision taken for extension of road from Himayathnagar Liberty Cross Road towards Narayanaguda from 80 feet width to 100 feet width, a

notification under Section 4 of the Land Acquisition Act 1894 was issued on 14.9.2004 for acquisition of properties situated at Himayathnagar for the purpose of road widening. The property of the petitioner was also mentioned in the said notification. It is stated that the petitioner had filed objections on 30.10.2004 under Section 5A of the said Act and requested to drop the said road widening programme. Subsequent the objections filed by the petitioner, an enquiry was conducted and declaration under Section 6 of the Act was made on 16.9.2005. It is also stated that after the declaration under Section 6 of the said Act was made, notice to the petitioner was served by the second respondent as an interested party under Section 9 of the Act to file objections dated 26.10.2005 to the said declaration of the acquisition. In reply to the said notice, the petitioner filed objections under section 11 of the Act for granting award for compensation and the same is pending. While so, on 07.8.2006 the officials of the respondent visited the petitioner's premises late in the evening for demolition of the petitioner's property, but the petitioner, with great difficulty, could resist the respondents from demolishing the petitioner's property. It is also stated that the petitioner along with the other owners of the property in the same locality were called for meeting on 5.5.2006 by respondents and on that day the petitioner and others were informed that the acquired land would be used for the street hawkers. Several other factual details also had been narrated in relation to W.P.No.12354 and 12364 of 2005.

In the light of the facts and circumstances, the main grievance of the petitioner is that unless and until the procedure under the Land Acquisition Act is followed and completed, the demolition activity cannot be carried on. It is needless to say that while taking up the demolition activity the respondents are bound to follow the procedure as contemplated by the provisions of the Hyderabad Municipal Corporation Act 1955.

In the light of the peculiar facts and circumstances, the writ petition is disposed of with a direction to respondents not to resort to the further demolition activity in relation to the subject matter of the writ petition, unless and until they follow the due process of law as specified by the provisions of the Hyderabad Municipal Corporation Act 1955 and also the provisions of the Land Acquisition Act.

With the above direction the writ petition is disposed of. No order as to costs.

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24.8.2006.

Mdaa.